THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.35794 of 1997

ORAL ORDER:

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This writ petition is filed questioning the order passed in M.P.No.9 of 1997 dated 25.10.1997 on the file of the Industrial Tribunal-cum-Labour Court at Warangal, whereunder the petition filed under Section 33(c)(2) of the Industrial Disputes Act, 1947 (for short 'the Act') claiming an amount of Rs.10,994/- towards wages from 1.4.1996 to 31.12.1996 was rejected.

According to the petitioner, his services were engaged as Security Guard in the Agricultural Market Committee, Kodakandla mandal, Warangal district, but however, the wages from 1.4.1996 to 31.12.1996 were not paid without any reasons. Therefore, he filed a petition under Section 33(c)(2) of the Act before the Labour Court claiming wages for the said period. The respondents filed a detailed counter denying the allegations made by the petitioner and stated that the services of the petitioner were engaged through Dwaraka Industrial Consultancy, Hanamkonda and hence, there is no relationship of employee and employer between the petitioner and respondents. The respondents never terminated the services of the petitioner at any time, therefore, the question of payment of wages for the period from 1.4.1996 to 31.12.1996 does not arise. The Labour Court vide impugned order dated 25.10.1997 dismissed the claim petition. Hence the writ petition.

The learned counsel for petitioner strenuously contended that the petitioner was an employee of the Market Committee and he cannot be treated as a person engaged through a Security Agency. In fact, in the budget for the year 1996-97, certain funds have been allocated for security purposes, which itself would show that the petitioner is not engaged by an outside agency and he is working as N.M.R. under the control of the respondents. Therefore, the findings recorded by the Labour Court that there was no relationship of employer and employee between petitioner and respondents is contrary to the evidence on record and perverse.

Whereas, the learned counsel for respondents supported the award

passed by the Labour Court and stated that the Labour Court has properly appreciated the evidence placed before it and rightly came to the conclusion that there was no relationship of employer and employee, therefore, the question of claiming wages under Section 33(c)(2) of the Act does not arise.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material made available on record.

On the basis of M.W.1, it was revealed that the petitioner was engaged through Dwaraka Industrial Consultancy as a Security Guard and the said agency used to pay wages to the petitioner. There was no privity of contract between the petitioner and respondents. The respondents entered into an agreement with the said Dwaraka Industrial Consultancy and they engaged the services of the petitioner. Therefore, there was no relationship of employer and employee between petitioner and respondents. These findings are based on evidence on record, therefore the same cannot be said to be either arbitrary or illegal calling interference of this Court under Article 226 of the Constitution of India. The writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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C.V.RAMULU, J

Date: 21.3.2007
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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.35794 of 1997

21.3.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.35794 of 1997

Date: 21st March, 2007

Between:

Yakub Pasha

.. Petitioner

And

The Secretary, Agricultural Market
Committee, Kodakandla Mandal,
Warangal district & others.

.. Respondents